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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/616,825

07/10/2003

Robert C. Greczanik

000817/0002

2686

26610 7590 08/24/2007  
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EXAMINER

WOLFE, DEBRA M

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

08/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/616,825

Applicant(s)

GRECZANIK ET AL.

Examiner

Debra Wolfe

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/22/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_



## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As the claim stands it appears to be claiming the tube to further have a hitch bar receiver tube. It is believed that Applicant is trying to claim the specific product the tube is, the Examiner suggests changes the term “comprises” to “is”.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-3, 5-8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Sorgi (US Patent # 6,931,906). In reference to claims 1 and 7, Sorgi discloses a method for cold forging a trailer hitch receiving housing comprising the steps of providing an elongated tube (12) having a substantially uniform wall thickness, the tube having inner and outer surfaces and first and second ends (see figure 1), providing a die (14) defining a cavity conforming to the outer surface of the tube (12), placing the tube (12) in the die cavity such that a length of the first end



extends beyond the die cavity (see figure 1), preventing movement of the tube longitudinally with respect to the die cavity [See col. 5 lines 31-36], providing a mandrel (28, 30) having a first portion (30) adapted to fit within the tube (12) through the first end and a second portion (28) extending radially from the mandrel first portion (30) having a tube deforming recess surface (48) adapted to impinge upon the first end (see figure 3 & 4), inserting the mandrel first portion (30) into the first end until the tube deforming surface (48) contacts the first end and advancing the mandrel (28, 30) under pressure thereby causing cold deformation of the first end, without creating a fold, and plastically deforming the first end within the mandrel recess (48) thereby creating an integral, reinforced lip at the first end [See FIGS 1, 3-6].

In reference to claim 2, the length of the first end extending beyond the die cavity is less than or equal to two times the wall thickness of the tube, as seen in figures 3 and 4.

In reference to claims 3 and 8, the mandrel first portion (30) conforms to the inner surface of the tube (12), as seen in figure 4.

In reference to claims 5 and 10, the tube has a rectangular cross section, as seen in figure 7.

In reference to claim 6, Sorgi further discloses the tube to be a hitch bar receiver tube, as seen in figure 7.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person



having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sorgi (US Patent # 6,931,906). Sorgi discloses the invention substantially as claimed except for wherein the tube has a circular cross section. However, it has been held that that the configuration (i.e. shape) of the claimed tube is a matter of design efficiency, which a person of ordinary skill in the art would find obvious absent persuasive evidence that the particular configuration of the claimed tube was significant [*In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)]. Furthermore, it is noted that Applicant fails to provide any criticality for the specific cross section of the tube [See page 9 lines 5-6 of paragraph 0027]. Therefore, it would have been obvious to one of ordinary skill in the art to provide a tube having a circular cross section since the configuration of a claimed product is a matter of choice dependent upon the desired configuration of the final product.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra Wolfe whose telephone number is (571) 272-1904. The examiner can normally be reached Monday - Thursday 7am - 4:30pm with alternating Friday 7am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Debra M Wolfe*  
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Examiner  
Art Unit 3725

  
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